

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

DENNIS RAY ETHEL, #1209026	§	
VS.	§	CIVIL ACTION NO. 6:15cv571
LARRY E. BERGER, ET AL.	§	

MEMORANDUM OPINION ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

Plaintiff Dennis Ray Ethel, an inmate of the Texas Department of Criminal Justice proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. The lawsuit was referred to the undersigned United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) as well as the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

After a review of the pleadings, the Magistrate Judge issued a Report, (Dkt. #18), recommending that Ethel's civil rights complaint be dismissed as frivolous and for failure to state a claim upon which relief can be granted. A copy of this Report was sent to Ethel at his address; return receipt requested. The docket shows that Ethel received a copy of the Report on April 16, 2018. (Dkt. #19). However, to date, no objections to the Report have been filed.

Accordingly, Ethel is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly it is

ORDERED that the Report of the Magistrate Judge, (Dkt. #18), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Plaintiff's civil rights complaint is **DISMISSED** with prejudice. Moreover, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

Finally, Ethel is hereby informed that the decision dismissing this lawsuit as frivolous counts as a strike for purposes of 28 U.S.C. § 1915(g). He is cautioned that once he accumulates three strikes, he may not proceed IFP either in any civil action or in any appeal of a civil action which is filed while he is incarcerated or detained in any facility—unless he is under imminent danger of serious physical injury.

It is so **ORDERED**.

So **ORDERED** and **SIGNED** this 19 day of **June, 2018**.



Ron Clark, United States District Judge